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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,307	10/26/2001	Arturo C. Garcia	0333-12	3148
21704	7590 05/05/2003			
LAW OFFICES OF ERIC KARICH			EXAMINER	
2807 ST. MAF MANSFIELD,			SMITH, J	AMES G
			ART UNIT	PAPER NUMBER
			3723	
			DATE MAILED: 05/05/2003	3

Please find below and/or attached an Office communication concerning this application or proceeding.

			!//		
	Application No.	Applicant(s)			
Office Action Summany	10/014,307	GARCIA ET AL.			
Office Action Summary	Examiner	Art Unit			
The MAN INC DATE of this committee is	James G. Smith	3723			
The MAILING DATE of this communication app Period for Reply	ars on the cover sheet w	uth the correspondence address			
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period was a period of the period for reply within the set or extended period for reply will, by statute, any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).  Status	36(a). In no event, however, may a within the statutory minimum of thi vill apply and will expire SIX (6) MOI cause the application to become A	reply be timely filed  rty (30) days will be considered timely.  NTHS from the mailing date of this communication  BANDONED (35 U.S.C. § 133).	on.		
1) Responsive to communication(s) filed on	<u> </u>				
2a) This action is <b>FINAL</b> . 2b) ⊠ Thi	is action is non-final.				
3) Since this application is in condition for allowa closed in accordance with the practice under <i>I</i> Disposition of Claims	nce except for formal ma Ex parte Quayle, 1935 C	atters, prosecution as to the merits D. 11, 453 O.G. 213.	is		
4) Claim(s) <u>1-9</u> is/are pending in the application.					
4a) Of the above claim(s) is/are withdraw	vn from consideration.				
5) Claim(s) is/are allowed.					
6)⊠ Claim(s) <u>1-9</u> is/are rejected.					
7) Claim(s) is/are objected to.					
8) Claim(s) are subject to restriction and/or	election requirement.				
Application Papers		•			
9)☐ The specification is objected to by the Examiner					
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.					
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).					
11) The proposed drawing correction filed on		disapproved by the Examiner.			
If approved, corrected drawings are required in rep	•				
12) The oath or declaration is objected to by the Exa	aminer.				
Priority under 35 U.S.C. §§ 119 and 120	and addressed to 05 H O O	0.440(.) (1) (0)			
13) Acknowledgment is made of a claim for foreign	priority under 35 U.S.C.	9 119(a)-(d) or (f).			
a) All b) Some * c) None of:	have been received				
1. Certified copies of the priority documents have been received.					
	2. Certified copies of the priority documents have been received in Application No				
<ul> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>					
14) Acknowledgment is made of a claim for domestic	priority under 35 U.S.C	§ 119(e) (to a provisional applica	tion).		
<ul> <li>a) ☐ The translation of the foreign language pro</li> <li>15)☐ Acknowledgment is made of a claim for domesting</li> </ul>	* *				
Attachment(s)					
<ol> <li>Notice of References Cited (PTO-892)</li> <li>Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u></li> </ol>	5) Notice of	Summary (PTO-413) Paper No(s) Informal Patent Application (PTO-152)			

Application/Control Number: 10/014,307

Art Unit: 3723

#### **DETAILED ACTION**

### Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis for "the shingle lifting head" in claim 1 and "distal end of the handle" in claim 3.

Also, it is unclear if the extended and compressed positions in claim 3 are the same as those recited in claim 1.

#### Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 4. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jacobs et. al. (516), see figure 9 for claimed handle shape.
- 5. Claims 1 and 5-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jacobs et. al. (374) or (634).

Application/Control Number: 10/014,307 Page 3

Art Unit: 3723

## Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over any of the Jacobs et. al. patents.

All of the Jacobs et. al. patents show the claimed invention except for the shape of the rod being rectangular instead of cylindrical, however rods or hollow tubes can be of any convenient shape and to use any of these shapes would therefore be obvious to one skilled in the art at the time the invention was made.

- 8. The remaining prior art is cited only as of interest at this time.
- 9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James G. Smith whose telephone number is 703-308-1746. The examiner can normally be reached on M-Th (7:05- 4:35) first Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail, III can be reached on 703-308-2687. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-305-9835 for After Final communications.

Art Unit: 3723

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

James G. Smith
Primary Examiner
Art Unit 3723

jgs April 28, 2003